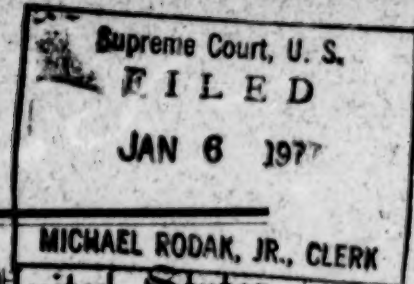


No. 76-706



**In the Supreme Court of the United States**

OCTOBER TERM, 1976

**MARITIME TERMINALS, INC., AND AETNA CASUALTY  
AND SURETY CO., PETITIONERS**

**v.**

**DONALD D. BROWN, VERNIE LEE HARRIS, THE SECRETARY OF  
LABOR, AND UNITED STATES DEPARTMENT OF LABOR**

**ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS FOR  
THE FOURTH CIRCUIT**

**MEMORANDUM FOR THE FEDERAL RESPONDENTS**

**ROBERT H. BORK,  
Solicitor General,  
Department of Justice,  
Washington, D.C. 20530.**

**WILLIAM J. KILBERG,  
Solicitor of Labor,**

**LAURIE M. STREETER,  
Associate Solicitor,**

**LINDA L. CARROLL,  
Attorney,  
Department of Labor,  
Washington, D.C. 20210.**

*In the Supreme Court of the United States*

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MARITIME TERMINALS, INC., AND AETNA CASUALTY  
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MEMORANDUM FOR THE FEDERAL RESPONDENTS

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These cases present the question whether persons engaged in stuffing (loading) cargo containers and moving these containers to a point on a pier closer to a vessel for their placement on it are covered by the provisions of the Longshoremen's and Harbor Workers' Compensation Act, as amended, 86 Stat. 1251, 33 U.S.C. (Supp. V) 902(3) and 903(a).

Donald Brown was a member of a stuffing gang assigned to load cotton and barrels of chemicals into a container that would be placed on board a vessel. Vernie Lee Harris was a hustler operator assigned to the moving of the cargo containers, some of which had previously been stuffed, from a marshalling yard to a point on the pier from which they would be placed on board a vessel.

An equally divided court of appeals affirmed the decision of the Benefits Review Board that Brown and Harris were both engaged in the overall process of loading the ship, and that they consequently were covered by the amended Act.

On December 6, 1976, this Court granted the petitions in *Northeast Marine Terminal Co. v. Caputo*, No. 76-444, and *International Terminal Operating Co., v. Blundo*, No. 76-454, in order to resolve the conflict among the circuits concerning the scope of shoreside coverage of the amended Act. In *Blundo* the claimant was involved in stripping a cargo container that had been removed from a vessel; here the claimants were involved in stuffing containers and moving them toward the vessel. Nothing in the Act would justify a different treatment of pre-loading and post-unloading activities, and these cases therefore should be governed by this Court's decision in *Blundo*. We therefore respectfully submit that the Court should defer consideration of the present petition pending its disposition of that case.

ROBERT H. BORK,  
*Solicitor General.*

WILLIAM J. KILBERG,  
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LAURIE M. STREETER,  
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LINDA L. CARROLL,  
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JANUARY 1977.